

AMENDED IN ASSEMBLY JANUARY 4, 2010

CALIFORNIA LEGISLATURE—2009–10 REGULAR SESSION

ASSEMBLY BILL

No. 1504

Introduced by Assembly Member Skinner

February 27, 2009

An act to amend Sections 4512, ~~4513, 4551, 4551.3, and 4582 of, and 4513 of~~, to add Section 4512.5 to, *and to add Chapter 3 (commencing with Section 4040) to Part 1 of Division 4 of*, the Public Resources Code, relating to forest resources.

LEGISLATIVE COUNSEL'S DIGEST

AB 1504, as amended, Skinner. Forest resources: carbon sequestration.

~~(1) The~~

The Z'berg-Nejedly Forest Practice Act of 1973, which regulates timber harvesting, contains legislative findings and declarations relative to forest resources, including a declaration that it is the policy of the state to encourage prudent and responsible forest resource management calculated to serve the public's need for timber and other forest products, while giving consideration to other specified public needs. The act also states the Legislature's intent to create and maintain an effective and comprehensive system of regulation and use of all timberlands to assure that the goal of maximum sustained production of high quality timber products is achieved while giving consideration to specified values. A willful violation of the act is a crime.

This bill would include in that list of specified public needs and that list of specified values sequestration of carbon dioxide. The bill also would make other legislative findings and declarations relative to carbon dioxide sequestration as it relates to forests.

The bill would require the Department of Forestry and Fire Protection, in consultation with the State Air Resources Board, by March 1, 2012, to assess the capacity of its forest and rangeland regulations and nonregulatory forestry programs to meet or exceed the state's greenhouse gas reduction goals, consistent with the scoping plan adopted by the board pursuant to the California Global Warming Solutions Act of 2006. The department would be required to publish a draft assessment by December 1, 2011, for public review and comment. The bill would require the board, in consultation with the department, to convene an independent panel to peer-review the draft assessment, and would require the department to incorporate the panel's findings and recommendations or describe in writing the reasons for rejecting a finding or recommendation.

~~(2) The act requires the State Board of Forestry and Fire Protection to adopt district forest practice rules and regulations for each forest district. A willful violation of the board's rules or regulations is a crime.~~

~~This bill would require the board to ensure that its rules and regulations governing the harvesting of commercial forest tree species maximize, to the extent feasible, the capacity of forest resources to sequester carbon dioxide emissions.~~

~~(3) The act requires a sustained yield plan that is prepared and approved in accordance with specified rules and regulations of the board to be effective for a period of no more than 10 years.~~

~~This bill would require the plan to contain strategies or measures to mitigate or avoid, to the maximum extent feasible, carbon dioxide emissions from the harvest of commercial forest tree species.~~

~~(4) The act prohibits a person from conducting timber operations unless a timber harvesting plan prepared by a registered professional forester has been submitted for the timber operations to the Department of Forestry and Fire Protection, and approved. The act requires a timber harvesting plan to include specified information.~~

~~This bill additionally would require the timber harvesting plan to include a description of strategies or measures to mitigate or avoid, to the maximum extent feasible, carbon dioxide emissions from timber operations.~~

~~(5) The bill would state the Legislature's intent to enact legislation to impose a timber yield fee upon harvested timber sufficient to cover the costs of the department to administer the act.~~

~~(6) Because a willful violation of the bill's provisions, or a rule or regulation adopted by the board pursuant to the bill, would be a crime, the bill would impose a state-mandated local program.~~

~~(7) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.~~

~~This bill would provide that no reimbursement is required by this act for a specified reason.~~

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: ~~yes~~no.

The people of the State of California do enact as follows:

1 SECTION 1. Chapter 3 (commencing with Section 4040) is
2 added to Part 1 of Division 4 of the Public Resources Code, to
3 read:

4
5 CHAPTER 3. FORESTS AND CARBON EMISSIONS
6

7 4040. (a) The department, in consultation with the State Air
8 Resources Board, by March 1, 2012, shall assess the capacity of
9 its forest and rangeland regulations and nonregulatory forestry
10 programs to meet or exceed the state's greenhouse gas reduction
11 goals, consistent with the scoping plan adopted by the State Air
12 Resources Board pursuant to the California Global Warming
13 Solutions Act of 2006 (Division 25.5 (commencing with Section
14 38500) of the Health and Safety Code). The department shall
15 consider at least all of the following in its assessment:

16 (1) Whether relevant statutory or regulatory requirements
17 governing a timber harvesting plan, sustained yield plan or its
18 equivalent, nonindustrial timber management plan, or any other
19 discretionary approval for timber harvesting are sufficient to
20 ensure a net reduction or sequestration of carbon emissions from
21 primary forest carbon sources, sinks, or reservoirs.

22 (2) Whether regulations governing conversion of timberland,
23 as defined by Section 4526, and forest land, as defined by
24 subdivision (g) of Section 12220, to nontimber and nonforest uses
25 are sufficient to offset lost sequestration capacity and carbon
26 emissions associated with the nontimber use.

1 (3) *Whether forest growth, harvest, and conversion information*
2 *obtained through the department's regulatory and nonregulatory*
3 *programs and other local, state, and federal sources is sufficient*
4 *and reliable in tracking changes to carbon stocks, including net*
5 *emissions and reductions, across the state's forested landscape.*

6 (b) (1) *By December 1, 2011, the department shall publish a*
7 *draft assessment, including any recommendations, for public*
8 *review and comment. The period for public review and comment*
9 *shall be at least 30 days.*

10 (2) *The State Air Resources Board, in consultation with the*
11 *department, shall convene an independent panel of at least three*
12 *qualified experts to peer-review the draft assessment. The State*
13 *Air Resources Board shall select at least two of the experts from*
14 *academia.*

15 (3) *The department shall incorporate the panel's findings and*
16 *recommendations or describe in writing the reasons, based on*
17 *substantial evidence, for rejecting a finding or recommendation.*

18 (c) (1) *For the purposes of this section, "net reduction or*
19 *sequestration of carbon emissions" means an increase in carbon*
20 *stocks over time of a primary forest carbon source, sink, or*
21 *reservoir, compared to a baseline.*

22 (2) *For the purposes of this section, "primary forest carbon*
23 *source, sink, or reservoir" includes standing live or dead trees,*
24 *soil, shrubs and herbaceous understory, lying dead wood, litter,*
25 *duff, and forest products.*

26 **SECTION 1.**

27 **SEC. 2.** Section 4512 of the Public Resources Code is amended
28 to read:

29 4512. (a) The Legislature hereby finds and declares that the
30 forest resources and timberlands of the state are among the most
31 valuable of the natural resources of the state and that there is great
32 concern throughout the state relating to their utilization, restoration,
33 and protection.

34 (b) The Legislature further finds and declares that the forest
35 resources and timberlands of the state furnish high-quality timber,
36 recreational opportunities, and aesthetic enjoyment while providing
37 watershed protection and maintaining fisheries and wildlife.

38 (c) The Legislature thus declares that it is the policy of this state
39 to encourage prudent and responsible forest resource management
40 calculated to serve the public's need for timber and other forest

1 products, while giving consideration to the public's need for
2 watershed protection, fisheries and wildlife, sequestration of carbon
3 dioxide, and recreational opportunities alike in this and future
4 generations.

5 (d) It is not the intent of the Legislature by the enactment of this
6 chapter to take private property for public use without payment of
7 just compensation in violation of the California and United States
8 Constitutions.

9 ~~SEC. 2.~~

10 SEC. 3. Section 4512.5 is added to the Public Resources Code,
11 to read:

12 4512.5. The Legislature finds and declares all of the following:

13 (a) State forests play a critical and unique role in the state's
14 carbon balance by ~~removing~~ *sequestering* carbon dioxide from the
15 atmosphere and storing it long-term as carbon.

16 ~~(b) Forests are the second largest source of carbon dioxide~~
17 ~~emissions globally, and also are the most expandable long-term~~
18 ~~carbon dioxide sink.~~

19 ~~(c) Carbon dioxide emissions from forests are primarily due to~~
20 ~~the loss of trees to harvest or converting forests to development~~
21 ~~or agriculture.~~

22 *(b) Globally, deforestation is responsible for about 20 percent*
23 *of anthropogenic greenhouse gas emissions. However, forests are*
24 *also the most expandable long-term carbon dioxide sinks.*

25 ~~(d)~~

26 (c) According to the scoping plan adopted by the State Air
27 Resources Board *pursuant to the California Global Warming*
28 *Solutions Act of 2006 (Division 25.5 (commencing with Section*
29 *38500) of the Health and Safety Code)*, the state's forests currently
30 are an annual net sequester of five million metric tons of carbon
31 dioxide (5MMTCO₂). *In fact, the forest sector is the only sector*
32 *included in the scoping plan that provides a net sequestration of*
33 *greenhouse gas emissions.*

34 ~~(e)~~

35 (d) The scoping plan proposes to maintain the current
36 5MMTCO₂ *annual* sequestration rate through 2020 by
37 implementing "sustainable management practices," which ~~currently~~
38 ~~remain undefined~~ *include potential changes to existing forest*
39 *practices and land use regulations.*

40 ~~(f)~~

1 (e) There is increasing evidence that climate change has and
2 will continue to stress forest ecosystems, which underscores the
3 importance of proactively managing forests so that they can adapt
4 to these stressors and remain a net sequester of carbon dioxide.

5 ~~(g)~~

6 (f) The board, the department, and the State Air Resources Board
7 should strive to go beyond the status quo sequestration rate and
8 ensure that all of their policies and regulations reflect the unique
9 role forests play in combating climate change.

10 ~~SEC. 3.~~

11 ~~SEC. 4.~~ Section 4513 of the Public Resources Code is amended
12 to read:

13 4513. It is the intent of the Legislature to create and maintain
14 an effective and comprehensive system of regulation and use of
15 all timberlands so as to assure both of the following:

16 (a) Where feasible, the productivity of timberlands is restored,
17 enhanced, and maintained.

18 (b) The goal of maximum sustained production of high-quality
19 timber products is achieved while giving consideration to values
20 relating to sequestration of carbon dioxide, recreation, watershed,
21 wildlife, range and forage, fisheries, regional economic vitality,
22 employment, and aesthetic enjoyment.

23 ~~SEC. 4.~~ Section 4551 of the Public Resources Code is amended
24 to read:

25 ~~4551. (a) The board shall adopt district forest practice rules~~
26 ~~and regulations for each district in accordance with the policies~~
27 ~~set forth in Article 1 (commencing with Section 4511) of this~~
28 ~~chapter and pursuant to Chapter 3.5 (commencing with Section~~
29 ~~11340) of Part 1 of Division 3 of Title 2 of the Government Code~~
30 ~~to assure the continuous growing and harvesting of commercial~~
31 ~~forest tree species and to protect the soil, air, fish, wildlife, and~~
32 ~~water resources, including, but not limited to, streams, lakes, and~~
33 ~~estuaries.~~

34 ~~(b) The board shall ensure that its rules and regulations~~
35 ~~governing the harvesting of commercial forest tree species~~
36 ~~maximize, to the extent feasible, the capacity of forest resources,~~
37 ~~including aboveground and belowground biomass and soil, to~~
38 ~~sequester carbon dioxide emissions.~~

39 ~~SEC. 5.~~ Section 4551.3 of the Public Resources Code is
40 amended to read:

1 ~~4551.3. (a) A sustained yield plan that is prepared and~~
2 ~~approved in accordance with rules and regulations adopted by the~~
3 ~~board pursuant to Section 4551, including Article 6.75~~
4 ~~(commencing with Section 1091.1) of Subchapter 7 of Chapter 4~~
5 ~~of Division 1.5 of Title 14 of the California Code of Regulations,~~
6 ~~shall be effective for a period of no more than 10 years. The plan~~
7 ~~shall contain strategies or measures to mitigate or avoid, to the~~
8 ~~maximum extent feasible, carbon dioxide emissions from the~~
9 ~~harvest of commercial forest tree species, including emissions~~
10 ~~associated with the disturbance to aboveground and belowground~~
11 ~~biomass and soil.~~

12 ~~(b) As part of the continuing monitoring process for an approved~~
13 ~~sustained yield plan, as described in subdivision (a), the department~~
14 ~~shall hold a public hearing on the plan if requested by an interested~~
15 ~~party who submits, in writing, a request based on substantial~~
16 ~~evidence of potential noncompliance with any of the following:~~

17 ~~(1) The terms and conditions of the original sustained yield plan~~
18 ~~approval.~~

19 ~~(2) The applicable provisions of the rules or regulations adopted~~
20 ~~by the board that were in effect on the date the sustained yield plan~~
21 ~~was originally approved.~~

22 ~~(3) Other requirements that have been imposed on the sustained~~
23 ~~yield plan by operation of law.~~

24 ~~(c) The request shall identify specific issues in the plan to be~~
25 ~~addressed at the public hearing. To be considered, a request shall~~
26 ~~be made to the department within six months after the midpoint~~
27 ~~of the effective term of a sustained yield plan described in~~
28 ~~subdivision (a). The department shall hold the public hearing within~~
29 ~~120 days after the date of the close of the six-month request period.~~
30 ~~A sustained yield plan shall be effective for the remainder of its~~
31 ~~term unless the director makes written findings, based on a~~
32 ~~preponderance of evidence, that implementation of the sustained~~
33 ~~yield plan is not in compliance with a material provision of~~
34 ~~paragraph (1), (2), or (3) of subdivision (b).~~

35 ~~(d) If a public hearing is required, the director shall provide at~~
36 ~~least 30 days' notice to the plan submitter and the public and shall~~
37 ~~provide for a record of the hearing, pursuant to regulations adopted~~
38 ~~by the board.~~

39 ~~SEC. 6. Section 4582 of the Public Resources Code is amended~~
40 ~~to read:~~

1 ~~4582. The timber harvesting plan shall be filed with the~~
2 ~~department in writing by a person who owns, leases, or otherwise~~
3 ~~controls or operates on all or a portion of any timberland and who~~
4 ~~plans to harvest the timber thereon. If the person who files the plan~~
5 ~~is not the owner of the timberland, the person filing the plan shall~~
6 ~~notify the timberland owner by certified mail that the plan has~~
7 ~~been submitted and shall certify that mailing to the department.~~
8 ~~The plan shall be a public record and shall include all of the~~
9 ~~following information:~~

10 ~~(a) The name and address of the timber owner.~~

11 ~~(b) The name and address of the timber operator if known at~~
12 ~~the time of filing. If the timber operator is not known at the time~~
13 ~~of filing, the plan submitter shall notify the department as soon as~~
14 ~~the timber operator is known, but in any case before timber~~
15 ~~operations begin.~~

16 ~~(c) A description of the land on which the work is proposed to~~
17 ~~be done, including a United States Geological Survey quadrangle~~
18 ~~map or equivalent indicating the location of all streams, the location~~
19 ~~of all proposed and existing logging truck roads, and indicating~~
20 ~~boundaries of all site I classification timberlands to be stocked in~~
21 ~~accordance with subdivision (b) of Section 4561 and any other~~
22 ~~site classifications if the board establishes specific minimum~~
23 ~~stocking standards for other site classifications.~~

24 ~~(d) A description of the silvicultural methods to be applied,~~
25 ~~including the type of logging equipment to be used.~~

26 ~~(e) An outline of the methods to be used to avoid excessive~~
27 ~~accelerated erosion from timber operations to be conducted within~~
28 ~~the proximity of a stream.~~

29 ~~(f) A description of strategies or measures to mitigate or avoid,~~
30 ~~to the maximum extent feasible, carbon dioxide emissions from~~
31 ~~timber operations, including the harvest of commercial forest tree~~
32 ~~species, and those associated with the disturbance to aboveground~~
33 ~~and belowground biomass and soil.~~

34 ~~(g) Special provisions, if any, to protect any unique area within~~
35 ~~the area of timber operations.~~

36 ~~(h) The expected dates of commencement and completion of~~
37 ~~timber operations.~~

38 ~~(i) A certification by the registered professional forester~~
39 ~~preparing the plan that he or she or a designee has personally~~
40 ~~inspected the plan area.~~

1 (j) ~~Any other information the board provides by regulation to~~
2 ~~meet its rules and the standards of this chapter.~~

3 ~~SEC. 7. The Legislature intends to enact legislation to impose~~
4 ~~a timber yield fee upon harvested timber sufficient to cover the~~
5 ~~costs of the Department of Forestry and Fire Protection to~~
6 ~~administer the Z'Berg-Nejedly Forest Practice Act of 1973~~
7 ~~(Chapter 8 (commencing with Section 4511) of Part 2 of Division~~
8 ~~4 of the Public Resources Code).~~

9 ~~SEC. 8. No reimbursement is required by this act pursuant to~~
10 ~~Section 6 of Article XIII B of the California Constitution because~~
11 ~~the only costs that may be incurred by a local agency or school~~
12 ~~district will be incurred because this act creates a new crime or~~
13 ~~infraction, eliminates a crime or infraction, or changes the penalty~~
14 ~~for a crime or infraction, within the meaning of Section 17556 of~~
15 ~~the Government Code, or changes the definition of a crime within~~
16 ~~the meaning of Section 6 of Article XIII B of the California~~
17 ~~Constitution.~~